

## BOARD OF ZONING APPEALS MEETING

TIPP CITY, MIAMI COUNTY, OHIO

June 25, 2009

**Meeting** Chairman Poff called this meeting of the Tipp City Board of Zoning Appeals to order at 6:00 p.m.

**Roll Call** Roll call showed the following Board Members present: Ron Poff, Katelyn Black, David Berrett, and John Borchers. Others in attendance: City Planner/Zoning Administrator Matthew Spring, and Board Secretary Kimberly Patterson.

Citizens attending the meeting: Penny Yannekis.

**Absence** Mr. Berrett **moved to excuse Mrs. Stacy Wall**, seconded by Mr. Borchers. Motion carried. Ayes: Berrett, Borchers, Black, and Poff. Nays: None.

**Election of Officers** Mr. Spring stated that Mrs. Wall had wished to express to the Board in her absence that she had no position on chair and vice chair and would be more than willing to do either.

Mr. Poff opened the floor for nominations.

Mr. Berrett **moved to elect Mr. Ron Poff as Chairman of the Board of Zoning Appeals**, seconded by Ms. Black. **Motion carried.** Ayes: Berrett, Black, Borchers, and Poff. Nays: None.

Mr. Berrett **moved to elect Mrs. Stacy Wall as Vice-Chairman of the Board of Zoning Appeals**, seconded by Mr. Borchers. **Motion carried.** Ayes: Berrett, Borchers, Poff, and Black. Nays: None.

Mr. Poff closed the floor for nominations.

**Board Minutes  
2/18/09** Chairman Poff asked for discussion. There being none, Ms. Black **moved to approve the February 18, 2008, meeting minutes as written**, seconded by Mr. Borchers. **Motion carried.** Ayes: Black, Borchers, and Poff. Nays: None. Mr. Berrett abstained from the vote.

**Chairman's Introduction** Chairman Poff explained the guidelines and procedures for the meeting and public hearings. He advised the applicants that a

Citizen Comments	<p>decision of the Board could be appealed to City Council within 10 days. If the Board granted the applicant's request, the applicant may file the appropriate permits after the 10-day waiting period has expired.</p>
Administration of Oath	<p>There was none.</p> <p>Mrs. Patterson swore in citizen wishing to speak and Mr. Spring.</p>
New Business Case No. 02-09 Penny Yannekis Variance Request	<p><b>New Business</b></p> <p><b>A. Case No. 02-09: Penny Yannekis - 313 W. Plum Street, Tipp City - Lot: Pt. IL 231</b> – The applicant requests two variances:</p> <p><u>Variance 1</u></p> <p>A variance of 2' to the required side setback of 3' noted in Code §154.059(D)(6), which requires all detached accessory structures to be setback a minimum of 3' from all lot lines.</p> <p><u>Variance 2</u></p> <p>A variance of 2' to the required rear setback of 3' noted in Code §154.059(D)(6), which requires all detached accessory structures to be setback a minimum of 3' from all lot lines.</p> <p><b>Present Zoning District:</b> R-2 – Urban Residential Zoning District</p> <p><b>Zoning Code Section(s):</b> §154.059(D)(4)</p> <p>Mr. Spring stated that the applicant requested the following two (2) variances in conjunction with the proposed placement of an accessory structure (shed) at the northeast rear corner of the property located at 313 W. Plum Street. Mr. Spring noted that if the requested variances were approved, the shed would be located one foot (1') from the eastern (side) property line and one foot (1') from the northern (rear) property line:</p> <p><u>Variance 1</u></p> <p>A variance of 2' to the required <b>side</b> setback of 3' noted in Code §154.059(D)(6), which requires all accessory structures to be setback a minimum of 3' from all lot lines.<u>sdf</u></p> <p><u>Variance 2</u></p> <p>A variance of 2' to the required <b>rear</b> setback of 3' noted in Code §154.059(D)(6), which requires all accessory structures to be setback a minimum of 3' from all lot lines.</p> <p>Mrs. Spring also stated that Zoning Code Section §154.059(D)(6) indicates:</p> <p><i>A detached accessory building shall be at least 3 feet from all lot lines.</i></p> <p>Staff noted the Board of Zoning Appeals had jurisdiction in this</p>

case to grant the variances requested:

§154.175 (E) "The Board may grant variances only in the following instances and no others:

1. To permit any yard or setback less than a yard or setback required by the applicable regulations.

Staff noted the following procedural requirements must be met regarding the granting of variances as noted in Section §154.175(C):

*"The Board shall make written findings of fact, based on the particular evidence presented to it, that each and every one of the following standards for a variance are met by the application:*

- (1) The particular physical surroundings, shape, or topographical condition of the specific property would cause particular and extraordinary hardship to the owner if the literal provisions of the zoning code were followed;*
- (2) The alleged hardship has not been created by the applicant for the variance after the adoption of the zoning code;*
- (3) The granting of a variance will not be materially detrimental to the public health, safety, convenience, or general welfare or injurious to other property or improvements in the vicinity;*
- (4) The granting of a variance will not constitute a grant of a special privilege, denied by this chapter to other property in the same zoning district, or permit a use not expressly allowed by this chapter, or permit a use prohibited expressly or by implication to other property in the same district. No nonconforming use of neighboring lands, structures or buildings in the same district, and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for the granting of a variance."*

Staff also noted the requirement of Section §154.175(D), which states:

*"The Board shall further make a written finding that the reasons set forth in the application justify the granting of a variance, and that the variance is the minimum variance that will make possible the reasonable use of the property. When a variance is denied, a written statement shall set forth the reason(s) therefore.*

Mr. Spring stated the additional notes regarding the case as

follows:

- The proposed shed would be 8' x 10' (80 sq. ft.).
- There was an existing 5' x 8' (40 sq. ft.) shed, which would be removed upon construction of the proposed shed.
- The existing shed currently maintains a one foot (1') setback from the eastern (side) property line and a six foot (6') setback from the northern (rear) property line.
- There were no recorded easements of record on the property in question.
- There was no record of an approved Zoning Compliance Permit (ZCP) on file for the existing shed.
- If approved, the applicant would be required to obtain an approved Zoning Compliance Permit prior to placement of the new shed.

Mr. Spring explained the procedural requirements to grant the variance in this case as outlined in Sections §154.175(E), §154.175(C), and §154.175(D) of the Tipp City Code of Ordinances.

Ms. Penny Yannekis, 313 W. Plum Street approached the dais

Board Members found the following regarding the case: New shed would be placed in the exact same place as the existing shed; applicant dependant on installer for foundation advice for the shed; applicant planned on doing landscaping around the new shed; applicant did review other placement options on her lot, but the only other place was too close to the home; no spouting would be on the shed; rain runoff on to contiguous property was a concern of the Board; door would face the alley.

Mr. Poff asked for further discussion. There was none.

Variance 1

Mr. Berrett **moved to grant a variance of 2' to the required side setback of 3' noted in Code §154.059(D)(6), which requires all accessory structures to be setback a minimum of 3' from all lot lines.** seconded by Ms. Black. **Motion carried.** Ayes: Berrett, Black, Poff, and Borchers. Nays: None.

Variance 2

Mr. Berrett **moved to grant a variance of 2' to the required rear setback of 3' noted in Code §154.059(D)(6), which requires all accessory structures to be setback a minimum of 3' from all lot lines** seconded by Ms. Black. **Motion carried.** Ayes: Berrett, Black, Borchers, and Poff. Nays: None.

**Old Business**

There was none.

**Miscellaneous**

There was none.

**Adjournment**

There being no further business, Mr. Berrett **moved to adjourn the meeting**, seconded by Mr. Poff and unanimously approved. **Motion carried.** Chairman Poff declared the meeting adjourned at 6:13 p.m.



Chairman Ron Poff

Attest:   
Mrs. Kimberly Patterson, Board Secretary

